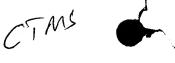


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/424,629	03/13/2000	SIMON FOOTE	13203	8264	
7:	590 10/01/2002				
LEOPOLD PRESSER SCULLY SCOTT MURPHY & PRESSER 400 GARDEN CITY PLAZA			EXAMINER		
			CHAKRABARTI, ARUN K		
GARDEN CITY, NY 11530			ART UNIT	PAPER NUMBER	
			1634	17	
			DATE MAILED: 10/01/2002	ATE MAILED: 10/01/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.

Applicant(s)

09/424,629

Art Unit

Advisory Action Examiner

Arun Chakrabarti

1634

Simon Foote et al.

	The MAILING DATE of this communication appears on the cover sheet with the correspondence address
Therefo ejectio illowai	EPLY FILED <u>Sep 25, 2002</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. ore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final on under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for name; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination in compliance with 37 CFR 1.114.
	THE PERIOD FOR REPLY [check only a) or b)]
a) [The period for reply expires6 months from the mailing date of the final rejection.
<i>b)</i> [The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).
exte appi set	ensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate ension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The ropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the ling date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).
1. 🔀	A Notice of Appeal was filed on <u>Sep 25, 2002</u> . Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. 🗆	The proposed amendment(s) will not be entered because:
(a)	they raise new issues that would require further consideration and/or search (see NOTE below);
(b) [\Box they raise the issue of new matter (see NOTE below);
(c)	they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) [they present additional claims without canceling a corresponding number of finally rejected claims.
,	VOTE:
3. 🗆	Applicant's reply has overcome the following rejection(s):
4. 🗆	Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. 🗷	The a) \square affidavit, b) \square exhibit, or c) \bowtie request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached sheet.
s. 🗆	The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. 🗆	For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
	The status of the claim(s) is (or will be) as follows:
	Claim(s) allowed:
	Claim(s) objected to:
	Claim(s) rejected:
	Claim(s) withdrawn from consideration:
3. 🗆	The proposed drawing correction filed on is a) \square approved or b) \square disapproved by the Examiner.
9. 🗆	Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s)
o.□ (Other:

The request for reconsideration filed on September 25, 2002 has been considered but does not place the application in condition for allowance because the applicant's arguments are not persuasive.

Applicant argues that Kamb does not teach the instant invention of how to detect a mutation that does not change any restriction site. Applicant's argument is not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., how to detect a mutation that does not change any restriction site) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Kamb inherently teaches the base specific mutation detection by restriction enzymes.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Even if it is considered that Kamb reference does not teach base specific cleavage, Sutherland reference clearly teaches base-specific cleavage and provides excellent motivation to combine the references as cited in the last office action.

Supervisory Patent Examiner Technology Center 1600